



06-01-05

Atty. Dkt. No. 037607-0120

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Applicant: Williams et al.

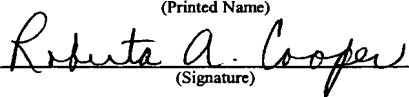
Title: ONLINE MORTGAGE
QUALIFICATION AND
APPLICATION SYSTEM AND
PROCESS

Appl. No.: 09/593,106

Filing Date: 06/13/2000

Examiner: Subramanian, N.

Art Unit: 3624

CERTIFICATE OF EXPRESS MAILING	
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Roberta A. Cooper	
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Mail Stop APPEAL BRIEF – PATENTS
Commissioner For Patents
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Alexandria, VA 22313-1450

Sir:

Transmitted herewith are the following documents for the above-identified application.

[X] Brief On Appeal (22 pages).

[X] Check for \$500.00 for Appeal Fee. The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1447. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1447.

Respectfully submitted,

Date 5/31/05

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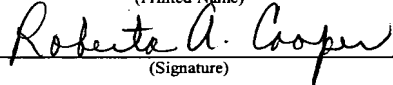
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BRIEF ON APPEAL

Mail Stop APPEAL BRIEF – PATENTS
Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Under the provisions of 37 C.F.R. § 41.37, this Appeal Brief is being filed together with a check in the amount of \$500.00 covering the 37 C.F.R. § 41.20(b)(2) appeal fee. If this fee is deemed to be insufficient, authorization is hereby given to charge any deficiency (or credit any balance) to the undersigned deposit account 06-1447.

1. REAL PARTY IN INTEREST

The real party in interest is the assignee of record, Fannie Mae (as recorded in the records of the United States Patent and Trademark Office at Reel/Frame 011172/0729 on October 12, 2000).

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2. RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences that will directly affect, be directly affected by, or have a bearing on the present appeal, that are known to the Appellant or Appellant's representative.

3. STATUS OF CLAIMS

The present appeal is directed to claims 1, 2, 4-8, 10-14, 16, 23, 25, 26, 28, 29, 31-33, 35-39, 41 and 53-58, all of which stand rejected pursuant to a final Office Action dated December 2, 2004 and an Advisory Action dated March 22, 2005.

4. STATUS OF AMENDMENTS

The claims have not been amended subsequent to the final rejection dated December 2, 2004 and an advisory action dated March 22, 2005.

5. SUMMARY OF CLAIMED SUBJECT MATTER

The present invention relates generally to a computerized mortgage qualification, application, approval, underwriting and pricing system 10 and process. See Figure 1, page 1, lines 1-2 and page 6, lines 14-16. The functions of system 10 may be accomplished in real time over the Internet or other global communications network. See Figure 1 and page 3, lines 20-21. One feature of system 10 underwrites a mortgage loan product selected by the borrower as well as all other available loan products to determine the mortgage loan products for which the borrower is approved and determines a price for all of the mortgage loan products for which the borrower is approved. See Figures 1, 2a and 14a, page 3, lines 18-19, page 4, lines 10-12, page 5, lines 10-12, page 15, lines 18-21 and page 40, lines 19-20. The borrower or loan originator is then provided with information (e.g., such information is displayed on a display device 32) such as loan product characteristics (e.g., term, adjustable rate, fixed rate, etc.), customized interest rate, approval status, monthly payment, etc. for multiple mortgage loan products for which the borrower is approved. See, Figures 1, 2q, 2r

and 14a, page 15, lines 18-21, page 16, lines 1-3, page 40, line 21 to page 41, line 2 and page 43, line 15 to page 44, line 2. The borrower (or a loan officer acting on the borrower's behalf) is essentially asking "Here is my loan application. What mortgage products can I get approved for?" The borrower may then compare the approved mortgage products (e.g., a 30 year fixed rate, a 20 year fixed rate, a 10 year adjustable rate, a 7 year balloon or other mortgage loan product) and associated interest rates and select an approved mortgage product that best fits the borrower's needs. See, Figures 2q and 2r, page 16, lines 1-3, page 40, line 21 to page 41, line 2 and page 43, lines 18 to page 44, line 2.

Independent claim 1 relates to an on-line mortgage loan application and qualification method that includes receiving loan application data for a mortgage loan (Fig. 2a, block 60) such as financial information concerning a borrower and a loan principal. See, page 14, lines 1-5. A plurality of approved mortgage products are identified based on the loan application data (Fig. 2a, blocks 64, 65 and 66; Fig. 14a, blocks 210, 214, 228, 229 and 232) using an automated underwriting engine 24. See Figure 1, page 15, lines 18-21, page 40, lines 19-20 and page 43, lines 15-18. A customized interest rate is calculated for each of the approved mortgage products (Fig. 2a, block 64). See, page 3, lines 18-19, page 5, lines 10-12, page 15, lines 16-17 and page 44, lines 16-18. Information regarding the approval status and customized interest rate for each of the approved mortgage products is presented (Fig. 2a, block 68) to the borrower for comparison and selection of the plurality of approved mortgage products. See page 15, line 21 to page 16, line 3, page 40, line 21 to page 41, line 2 and page 43, line 18 to page 44, line 2.

Independent claim 11 relates to an on-line mortgage application and qualification method that includes obtaining loan application data for a mortgage loan (Fig. 2a, block 60) such as financial information concerning a borrower and a loan principal. See, page 14, lines 1-5. A plurality of approved mortgage products are identified based on the loan application data (Fig. 2a, blocks 64, 65 and 66; Fig. 14a, blocks 210, 214, 228, 229 and 232) using an automated underwriting engine 24. See Figure 1, page 15, lines 18-21, page 40, lines 19-20 and page 43, lines 15-18. A customized interest rate is calculated for each of the approved mortgage products (Fig. 2a, block 64). See, page 3, lines 18-19, page 5, lines 10-12, page 15, lines 16-17 and page 44, lines 16-18. Information regarding the approval status and customized interest rate for each of the approved mortgage products is presented (Fig. 2a,

block 68) to the borrower for comparison and selection of the plurality of approved mortgage products. See page 15, line 21 to page 16, line 3, page 40, line 21 to page 41, line 2 and page 43, line 18 to page 44, line 2. One of the plurality of approved mortgage products is selected on-line (Fig. 2a, block 74) and then an on-line updated customized interest rate is provided during a float period. See, page 16, lines 1-3, page 52, lines 18-19 and page 53, lines 1-4. An operator lock of the customized interest rate for the select mortgage product is received on-line (Fig. 2a, block 78). See page 17, lines 20-21 and page 52, lines 17-20.

Independent claim 23 related to an on-line mortgage application and qualification method that includes receiving loan application data for a mortgage loan (Fig. 2a, block 60) such as financial information concerning a borrower and a loan principal. See, page 14, lines 1-5. A plurality of approved mortgage products are identified based on the loan application data (Fig. 2a, blocks 64, 65 and 66; Fig. 14a, blocks 210, 214, 228, 229 and 232) using an automated underwriting engine 24 and a required yield is retrieved. See Figure 1, page 15, lines 18-21, page 40, lines 19-20, page 43, lines 15-18 and page 45, lines 1-4. A customized interest rate is calculated for each of the approved mortgage products (Fig. 2a, block 64). See, page 3, lines 18-19, page 5, lines 10-12, page 15, lines 16-17 and page 44, lines 16-18. Calculating the customized interest rate includes calculating adjustments to the required yield based at least one of the credit risk posed by the borrower, the collateral risk associated with not requiring collateral appraisal, the loan-to-value ratio and the loan purpose. See, Figures 14a and 15-17, page 45, lines 1-4, page 45, lines 10-18 and page 46, lines 7-17. Information regarding the approval status and customized interest rate for each of the approved mortgage products is presented (Fig. 2a, block 68) to the borrower for comparison and selection of the plurality of approved mortgage products. See page 15, line 21 to page 16, line 3, page 40, line 21 to page 41, line 2 and page 43, line 18 to page 44, line 2.

Independent claim 26 relates to an on-line mortgage loan application and qualification method that includes receiving loan application data for a mortgage loan (Fig. 2a, block 60) such as financial information concerning a borrower and a loan principal and a required yield is retrieved. See, page 14, lines 1-5 and page 45, lines 1-4. A plurality of approved mortgage products are identified based on the loan application data (Fig. 2a, blocks 64, 65 and 66; Fig. 14a, blocks 210, 214, 228, 229 and 232) using an automated underwriting engine 24. See Figure 1, page 15, lines 18-21, page 40, lines 19-20 and page 43, lines 15-18. A customized

interest rate is calculated for each of the approved mortgage products (Fig. 2a, block 64). See, page 3, lines 18-19, page 5, lines 10-12, page 15, lines 16-17 and page 44, lines 16-18. Calculating the customized interest rate includes calculating adjustments to the required yield based at least one of the credit risk posed by the borrower, the collateral risk associated with not requiring collateral appraisal, the loan-to-value ratio and the loan purpose. See, Figures 14a and 15-17, page 45, lines 1-4, page 45, lines 10-18 and page 46, lines 7-17. Information regarding the approval status and customized interest rate for each of the approved mortgage products is presented (Fig. 2a, block 68) to the borrower for comparison and selection of the plurality of approved mortgage products. See page 15, line 21 to page 16, line 3, page 40, line 21 to page 41, line 2 and page 43, line 18 to page 44, line 2. One of the plurality of approved mortgage products is selected on-line (Fig. 2a, block 74) and a selection of a float option is selected on-line. See, page 16, lines 1-3, page 52, lines 18-19 and page 53, lines 1-4. An on-line updated customized interest rate is then provided during a float period. See, page 16, lines 1-3, page 52, lines 18-19 and page 53, lines 1-4. An operator lock of the customized interest rate for the select mortgage product is received on-line (Fig. 2a, block 78). See page 17, lines 20-21 and page 52, lines 17-20.

Independent claim 28 relates to an on-line mortgage qualification system (10) that includes means for receiving loan application data for a mortgage loan (30, 32) such as financial information concerning a borrower and a loan principal. See, Figures 1 and 2a, page 14, lines 1-5 and page 10, line 20 to page 11, line 3. The system also includes means for identifying a plurality of approved mortgage products (24) based on the loan application data. See Figure 1, page 15, lines 18-21, page 40, lines 19-20 and page 43, lines 15-18. A customized interest rate is calculated for each of the approved mortgage products using a pricing engine 22. See, page 3, lines 18-19, page 5, lines 10-12, page 15, lines 16-17 and page 44, lines 16-18. Information regarding the approval status and customized interest rate for each of the approved mortgage products is presented to the borrower for comparison and selection of the plurality of approved mortgage products. See page 15, line 21 to page 16, line 3, page 40, line 21 to page 41, line 2 and page 43, line 18 to page 44, line 2.

Independent claim 36 relates to an on-line mortgage qualification system (10) that includes means for obtaining loan application data (30, 32) for a mortgage loan such as financial information concerning a borrower and a loan principal. The system also includes

means for identifying a plurality of approved mortgage products (24) based on the loan application data. See Figure 1, page 15, lines 18-21, page 40, lines 19-20 and page 43, lines 15-18. A customized interest rate is calculated for each of the approved mortgage products using a pricing engine (22). See, page 3, lines 18-19, page 5, lines 10-12, page 15, lines 16-17 and page 44, lines 16-18. Calculating the customized interest rate includes calculating adjustments to the required yield based at least one of the credit risk posed by the borrower, the collateral risk associated with not requiring collateral appraisal, the loan-to-value ratio and the loan purpose. See, Figures 14a and 15-17, page 45, lines 1-4, page 45, lines 10-18 and page 46, lines 7-17. Information regarding the approval status and customized interest rate for each of the approved mortgage products is presented to the borrower for comparison and selection of the plurality of approved mortgage products. See page 15, line 21 to page 16, line 3, page 40, line 21 to page 41, line 2 and page 43, line 18 to page 44, line 2. One of the plurality of approved mortgage products is selected on-line and a selection of a float option is selected on-line using an input device (32). See, page 16, lines 1-3, page 52, lines 18-19 and page 53, lines 1-4. An on-line updated customized interest rate is then provided during a float period (e.g., using a display 32). See, page 16, lines 1-3, page 52, lines 18-19 and page 53, lines 1-4. An operator lock of the customized interest rate for the select mortgage product is received on-line using an input device (32). See page 17, lines 20-21 and page 52, lines 17-20.

6. GROUND S OF REJECTION TO BE REVIEWED ON APPEAL

The issues on appeal are (1) whether the Examiner erred in rejecting claims 1, 4-8, 10, 28, 31-33, 35, 53 and 54 as being unpatentable under 35 U.S.C. § 103(a) over U.S. Patent No. 6,088,686 (Walker et al.) and (2) whether the Examiner erred in rejecting claims 2, 11-14, 16, 23, 25, 26, 29, 36-39, 41 and 55-58 as being unpatentable under 35 U.S.C. § 103(a) over Walker et al. in view of U.S. Patent No. 6,029,149 (Dykstra).

7. **ARGUMENT**

A. LEGAL STANDARDS

Claims 1, 2, 4-8, 10-14, 16, 23, 25, 26, 28, 29, 31-33, 35-39, 41 and 53-58 have been rejected under 35 U.S.C. § 103(a), which states:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The legal standards under 35 U.S.C. § 103(a) are well-settled. Obviousness under 35 U.S.C. § 103(a) involves four factual inquiries: 1) the scope and content of the prior art; 2) the differences between the claims and the prior art; 3) the level of ordinary skill in the pertinent art; and 4) secondary considerations, if any, of nonobviousness. See Graham v. John Deere Co., 383 U.S. 1, 148 U.S.P.Q. 459 (1966).

In proceedings before the Patent and Trademark Office, the Examiner bears the burden of establishing a prima facie case of obviousness based upon the prior art. In re Piasecki, 745 F.2d 1468, 1471-72, 223 U.S.P.Q. 785, 787-88 (Fed. Cir. 1984). “[The Examiner] can satisfy this burden only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references.” In re Fritch, 972 F.2d 1260, 1265, 23 U.S.P.Q.2d 1780, 1783 (Fed. Cir. 1992).

As noted by the Federal Circuit, the “factual inquiry whether to combine references must be thorough and searching.” McGinley v. Franklin Sports, Inc., 262 F.3d 1339, 60 USPQ.2d 1001 (Fed. Cir. 2001). Further, it “must be based on objective evidence of record.” In re Lee, 277 F.3d 1338, 61 USPQ.2d 1430 (Fed. Cir. 2002). The teaching or suggestion to make the claimed combination must be found in the prior art, and not in the applicant’s

disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ.2d 1438 (Fed. Cir. 1991). The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. In re Mills, 916 F.2d 680, 16 USPQ.2d 1430 (Fed. Cir. 1990). "It is improper, in determining whether a person of ordinary skill would have been led to this combination of references, simply to '[use] that which the inventor taught against its teacher.'" Lee (citing W.L. Gore v. Garlock, Inc., 721 F.2d 1540, 1553, 220 USPQ 303, 312-13 (Fed. Cir. 1983)).

B. REJECTION OF CLAIMS 1, 4-8, 10, 28, 31-33, 35, 53 AND 54 UNDER 35 U.S.C. § 103(A) OVER WALKER ET AL.

In the final Office Action dated December 2, 2004, claims 1, 4-8, 10, 28, 31-35, 35, 53 and 54 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,088,686 to Walker et al.

I. The Examiner's rejection of claims 1, 4-8, 10, 28, 31-33, 35, 53 and 54 under 35 U.S.C. § 103(a) over Walker et al. should be reversed because at least one limitation of each of these claims is not taught or suggested by Walker et al.

To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art (see MPEP § 2143.03). Because at least one limitation of independent claims 1 and 28 is not taught by Walker et al., these claims (and their associated dependent claims) would not have been obvious to one of ordinary skill in the art at the time of the invention.

Claim 1 recites, among other limitations, "identifying a plurality of approved mortgage products. . ." and "providing information regarding approval status and the customized interest rate for presentation to the borrower for each of the plurality of approved mortgage products for borrower comparison and selection of one of the plurality of approved mortgage products."

Claim 28 recites, among other limitations, "means for identifying a plurality of approved mortgage products. . ." and "means for providing information regarding approval status and the customized interest rate for presentation to the borrower for each of the

plurality of approved mortgage product for borrower comparison and selection of one of the plurality of approved mortgage products.”

In the Office Action dated January 20, 2004, the Examiner cited generally to Walker et al. (Abstract, col. 2, lines 1-53, col. 3, lines 37-47, col. 6, lines 16-64 and col. 9, lines 32-65) as showing many of the features of the independent claims. As set forth in an Examiner Interview Summary dated July 19, 2004, in an interview July 12, 2004, Appellants representatives argued the patentable distinctions of the independent claims over the prior art. In response the Examiner “agreed to search these features before the next office action.” See, Examiner Interview Summary dated July 19, 2004. In the final Office Action dated December 2, 2004, the Examiner repeated the same rejections as in the Office Action dated January 20, 2004. In a second interview on January 26, 2005, Appellant’s representatives argued the patentable distinctions over Walker et al. and the Examiner again “agreed to do another search after receiving a formal response to the last office action. . . .” See, Examiner Interview Summary dated February 2, 2005. In the Advisory Action dated March 22, 2005, however, the Examiner repeated the same rejections of the pending claims over Walker et al.

Appellant submits that Walker et al. does not teach or suggest, among other features, identifying a plurality of approved mortgage products and providing approval status and customized interest rate information for each of a plurality of approved mortgage products for borrower comparison and selection. Rather, Walker et al. teaches a system which evaluates the credit worthiness of an applicant for a credit product and determines an approval status and price for the credit product requested by the applicant. See, Walker et al., Abstract, col. 2, lines 16-23, col. 6, lines 39-47 and col. 9, lines 37-39. Although Walker et al. discusses identifying other credit products for which the applicant may be eligible (a “credit qualified offer”) based on the credit worthiness of the applicant, the other credit products are identified only as potential cross-sell candidates (i.e., other/additional products the applicant may wish to obtain in addition to the originally requested liability or credit product). See, Walker et al., col. 2, lines 10-13 and lines 26-34 and col. 11, lines 45-53. For example, an applicant for a mortgage may be offered a credit card based on their credit worthiness. Walker et al. states:

For example, by identifying an applicant as potentially credit worthy for a variety of other products that the applicant has not requested, the LBR can offer a more attractive package of products to the applicant that will enhance the service and

potentially the pricing being provided. This feature enables the LBR to target his or her efforts to those applicants to which the financial institution can offer a full range of services and benefits, above and beyond those requested by the applicant. See, Walker et al., col. 2, lines 29-38.

This feature provides systematic processing of “credit qualified” that enables an LBR 12 to recognize (either by flag/light/offered amount) which applicants 10 surpass initial credit evaluation screens (e.g., disaster screen, credit score, etc.) encouraging them to optimize sales energy towards cross-selling additional credit products since initial systematic evaluation has indicated that the applicant 10 is credit qualified, although still subject to the required verifications. See, Walker et al., col. 11, lines 45-53.

Systemic credit evaluation via an ACAPS link to the front-end processing system rapidly identifies “credit qualified” applicants, enabling the LBR 12 to immediately identify those applicants 10 that exceed initial credit criteria. The LBR 12 may then maximize cross-sell opportunities with those applicants. See, Walker et al., col. 11, lines 61-64.

In Walker et al., there is little discussion of mortgages. In fact, the only reference to a mortgage appears to be in Figure 4B listing a first mortgage and a second mortgage as valid product types. However, in the context of Figure 4B and in view of Walker’s teachings regarding cross-selling additional credit products, it appears that the “second mortgage” is a mortgage that would be taken in addition to a first mortgage (e.g., a home equity line of credit). There does not appear to be any teaching that the second mortgage is a mortgage that would be presented as an alternative to the first mortgage for borrower comparison and selection. Accordingly, Walker et al. does not contemplate identifying multiple mortgage products and providing customized interest rate and approval status information for multiple mortgage products for borrower comparison and selection.

In addition, Walker et al. does not teach that the recommended credit products for the credit qualified offers are presented as approved credit products or approved mortgage products. In Walker et al., once an applicant selects to accept a credit qualified offer for an additional credit product, the credit qualified offer is converted into a request for credit that requires on-line credit processing for a final decision. See, Walker et al., Figure 51 (block 2256), col. 13, line 65 to col. 14, line 4. Accordingly, Walker et al. does not contemplate

identifying multiple approved mortgage products and providing and approval status and customized interest rate for each of a plurality of approved mortgage products for borrower comparison and selection.

The rejection of independent claims 1 and 28 should be reversed, because at least one element of each of these claims is not taught or suggested by Walker et al.

The rejection of dependent claims 4-8, 10, 31-33, 35, 53 and 54 should also be reversed for at least the same reasons as for independent claims 1 and 28. See, 35 U.S.C. § 112, paragraph 4.

Accordingly, the Appellant respectfully requests the reversal of the rejection of claims 1, 4-8, 10, 28, 31-33, 35, 53 and 54.

C. REJECTION OF CLAIMS 2, 11-14, 16, 23, 25, 26, 29, 36-39, 41 AND 55-58 UNDER 35 U.S.C. § 103(A) OVER WALKER ET AL. AND DYKSTRA

In the final Office Action dated December 2, 2004, claims 2, 11-14, 16, 23, 25, 26, 29, 36-39, 41 and 55 -58 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,088,686 to Walker et al. in view of U.S. Patent No. 6,029,149 to Dykstra.

I. The Examiner's rejection of claims 11-14, 16, 26, 36-39, 41 and 55-58 under 35 U.S.C. § 103(a) over Walker et al. in view of Dykstra should be reversed because at least one limitation of each of these claims is not taught or suggested by the combination of Walker et al. and Dykstra.

Claim 11 recites, among other limitations "identifying a plurality of approved mortgage products. . ."; "providing information regarding approval status and the customized interest rate for presentation to the borrower for each of the plurality of approved mortgage products for borrower comparison and selection of one of the plurality of approved mortgage products"; and "receiving an on-line operator lock of the customized interest rate for the selected mortgage product."

Claim 26 recites, among other limitations "identifying a plurality of approved mortgage products. . ."; "providing information regarding approval status and the customized interest rate for presentation to the borrower for each of the plurality of approved mortgage products for borrower comparison and selection of one of the plurality of approved mortgage

products”; and “receiving an on-line operator lock of the customized interest rate for the selected mortgage product.

Claim 36 recites, among other limitations “means for identifying a plurality of approved mortgage products. . .”; “means for providing information regarding approval status and the customized interest rate for presentation to the borrower for each of the plurality of approved mortgage products for borrower comparison and selection of one of the plurality of approved mortgage products”; and “means for receiving an on-line operator lock of the customized interest rate for the selected mortgage product.”

As discussed above in Section 7(A)(I), Walker et al. does not teach or suggest identifying a plurality of approved mortgage products and providing approval status and customized interest rate information for each of a plurality of approved mortgage products for borrower comparison and selection. Independent claims 11, 26 and 36 further include a limitation related to receiving an on-line operator lock of the customized interest rate for the selected mortgage product. In the Office Action dated January 20, 2004 and the final Office Action dated December 2, 2004, the Examiner indicates that Walker et al. does not teach or suggest “receiving a lock of the customized interest rate for the selected loan product” and contends that U.S. Patent No. 6,029,149 to Dykstra teaches this limitation.

Appellant submits that the combination of Walker et al and Dykstra does not teach or suggest receiving an on-line operator lock of the customized interest rate for the selected mortgage product. Rather Dykstra teaches a system that processes a loan application through loan approval (e.g., a loan decision status), then passes the loan decision status and borrower information on to a lender so the lender can perform additional steps required before making the loan to the borrower. Specifically, Dykstra states: “From there, the potential borrower can take his or her copy of the verification of the loan approval to the lender, sign the papers, and obtain the loan money. . . .” See, Dykstra, col. 7, lines 47-50. Accordingly, the operation of the system discloses in Dykstra in figures 1 and 2A-2F stops at loan approval. There is no teaching or suggestion of receiving an on-line operator lock of a customized interest rate for the mortgage loan.

The rejection of independent claims 11, 26, and 36 should be reversed because at least one element of each of these claims is not taught or suggested by the combination of Walker et al. and Dykstra.

The rejection of dependent claims 12-14, 16, 35-39, 41 and 55-58 should also be reversed for at least the same reasons as for independent claims 11, 26 and 36. See, 35 U.S.C. § 112, paragraph 4.

Accordingly, the Appellant respectfully requests the reversal of the rejection of claims 11-14, 16, 26, 36-39, 41 and 55-58.

II. The Examiner's rejection of claim 23 and 25 under 35 U.S.C. § 103(a) over Walker et al. in view of Dykstra should be reversed because at least one limitation of each of these claims is not taught or suggested by the combination of Walker et al. and Dykstra.

Claims 23 recites, among other limitations "identifying a plurality of approved mortgage products . . ." and "providing information regarding approval status and the customized interest rate for presentation to the borrower for each of the plurality of approved mortgage products for borrower comparison and selection of one of the plurality of approved mortgage products."

As discussed above in Section 7(A)(I), Walker et al. does not teach or suggest identifying a plurality of approved mortgage products and providing approval status and customized interest rate information for each of a plurality of approved mortgage products for borrower comparison and selection. In addition, as discussed in the Amendment and Reply filed by Applicant's on August 8, 2003, Dykstra also does not teach or suggest these limitations. Accordingly, the combination of Walker et al and Dykstra does not teach or suggest identifying a plurality of approved mortgage products and providing approval status and customized interest rate information for each of a plurality of approved mortgage products for borrower comparison and selection.

The rejection of claim 23 should be reversed because at least one element of this claim is not taught or suggested by the combination of Walker et al. and Dykstra.

The rejection of dependent claim 25 should also be reversed for at least the same reasons as for independent claim 26. See 35 U.S.C. § 112, paragraph 4.

Accordingly, the Appellant respectfully requests that reversal of the rejection of claims 23 and 25.

III. The Examiner's rejection of claims 2 and 29 under 35 U.S.C. § 103(a) over Walker et al. in view of Dykstra should be reversed because at least one limitation of each of these claims is not taught or suggested by the combination of Walker et al. and Dykstra.

As discussed above in Section 7(A)(I), Walker et al. does not teach or suggest at least one element of independent claims 1 and 28. Claims 2 and 29 are patentable for at least the same reasons discussed above with respect to independent claims 1 and 28. See 35 U.S.C. § 112, paragraph 4.

In addition to the limitations of claim 1 (from which claim 2 depends), and of claim 28 (from which claim 29 depends), dependent claims 2 and 29 further include a limitation related to receiving an on-line operator lock of the customized interest rate for the selected mortgage product. As discussed above in Section 7(C)(I), the combination of Walker et al and Dykstra does not teach or suggest receiving an on-line operator lock of the customized interest rate for the selected mortgage product.

The rejection of claims 2 and 29 should be reversed because at least one element of claims 2 and 29 is not taught or suggested by the combination of Walker et al and Dykstra.

Accordingly, the Appellant respectfully requests reversal of the rejection of claims 2 and 29.

8. **CONCLUSION**

In view of the foregoing, the Appellant submits that claims 1, 4-8, 10, 28, 31-33, 35, 53 and 54 are not properly rejected under 35 U.S.C. § 103(a) over U.S. Patent No. 6,088,686 (Walker et al.) and are therefore patentable. The Appellant also submits that claims 2, 11-14, 16, 23, 25, 26, 29, 36-39, 41 and 55-58 are not properly rejected under 35 U.S.C. § 103(a) over U.S. Patent No. 6,088,686 (Walker et al.) in view of U.S. Patent No. 6,029,149 (Dykstra) and are therefore patentable. Accordingly, the Appellant respectfully requests that the Board reverse all claim rejections and indicate that a notice of allowance respecting all pending claims should be reissued.

Respectfully submitted,

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CLAIMS APPENDIX

1. An on-line mortgage loan application and qualification method, comprising the steps of:

receiving loan application data for a mortgage loan, the loan application data including financial information concerning a borrower and specifying a loan principal;

identifying a plurality of approved mortgage products based on the loan application data, the plurality of approved mortgage products being identified using an automated underwriting engine that generates underwriting recommendations based at least in part on preselected underwriting guidelines of a secondary mortgage market purchaser;

calculating a customized interest rate based on the financial information for each of the plurality of approved mortgage products; and

providing information regarding approval status and the customized interest rate for presentation to the borrower for each of the plurality of approved mortgage products for borrower comparison and selection of one of the plurality of approved mortgage products.

2. The method of claim 1, further comprising the steps of:

receiving a selection of one of the plurality of approved mortgage products;

receiving a lock of the customized interest rate for the selected mortgage product; and
aggregating closing costs into the loan principal of the mortgage loan.

4. The method of claim 1, further comprising the step of determining the likelihood that the borrower will be approved.

5. The method of claim 4, wherein the step of determining the likelihood that the potential borrower will be approved is performed without reliance on at least one of a collateral appraisal and a credit report.

6. The method of claim 1, further comprising obtaining a credit report on the borrower.

7. The method of claim 1, further comprising determining an appropriate level of collateral appraisal field work to be performed.

8. The method of claim 7, wherein the appropriate level of collateral appraisal field work is one of waived, exterior-only collateral inspection and interior and exterior collateral inspection.

10. The method of claim 1, wherein the plurality of approved mortgage products are mortgage refinance products.

11. An on-line mortgage loan application and qualification method, comprising the steps of:

obtaining loan application data for a mortgage loan, the loan application data including financial information concerning a borrower and specifying a loan principal;

identifying a plurality of approved mortgage products based on the loan application data, the plurality of approved mortgage products being identified using an automated underwriting engine that generates underwriting recommendations based at least in part on preselected underwriting guidelines of a secondary mortgage market purchaser;

calculating a customized interest rate based on the financial information for each of the plurality of approved mortgage products;

providing information regarding approval status and the customized interest rate for presentation to the borrower for each of the plurality of approved mortgage products for borrower comparison and selection of one of the plurality of approved mortgage products;

receiving an on-line operator selection of one of the plurality of approved mortgage products;

providing on-line updated customized interest rate information for presentation to the borrower during a float period after the operator selection is received;

receiving an on-line operator lock of the customized interest rate for the selected mortgage product.

12. The method of claim 11, wherein obtaining loan application data involves soliciting responses from the borrower to a questionnaire provided over a global computer network.

13. The method of claim 12, wherein the global computer network is the Internet.

14. The method of claim 11, further comprising calculating a probability that the potential borrower will be approved for a mortgage product based on a proxy credit score.

16. The method of claim 11, wherein the plurality of approved mortgage products are mortgage refinance products.

23. An on-line mortgage loan application and qualification method, comprising the steps of:

receiving loan application data for a mortgage loan, the loan application data including financial information concerning a borrower and specifying a loan principal;

identifying a plurality of approved mortgage products based on the loan application data, the plurality of approved mortgage products being identified using an automated underwriting engine that generates underwriting recommendations based at least in part on preselected underwriting guidelines of a secondary mortgage market purchaser;

retrieving a required yield;

calculating a customized interest rate based on the financial information for each of the plurality of approved mortgage products, including calculating adjustments to the required yield associated with the mortgage product based on at least one of (i) credit risk posed by the borrower, (ii) collateral risk associated with not requiring a collateral appraisal, (iii) loan-to-value ratio, and (iv) loan purpose; and

providing information regarding approval status and the customized interest rate for presentation to the borrower for each of the plurality of approved mortgage products for borrower comparison and selection of one of the plurality of approved mortgage products.

25. The method of claim 23, wherein the plurality of approved mortgage products are mortgage refinance products.

26. An on-line mortgage loan application and qualification method, comprising the steps of:

receiving loan application data for a mortgage loan, the loan application data including financial information concerning a borrower and specifying a loan principal;

identifying a plurality of approved mortgage products based on the loan application data, the plurality of approved mortgage products being identified using an automated underwriting engine that generates underwriting recommendations based at least in part on preselected underwriting guidelines of a secondary mortgage market purchaser;

retrieving a required yield;

calculating a customized interest rate based on the financial information for each of the plurality of approved mortgage products, including calculating adjustments to the required yield associated with the mortgage product based on (i) credit risk posed by the borrower, (ii) product characteristics of the mortgage product, (iii) loan-to-value ratio, and (iv) loan purpose;

providing information regarding approval status and the customized interest rate for presentation to the borrower for each of the plurality of approved mortgage products for borrower comparison and selection of one of the plurality of approved mortgage products;

receiving an on-line operator selection of one of the plurality of approved mortgage products;

receiving an on-line operator selection of a float option;

providing on-line updated customized interest rate information for presentation to the borrower during a float period after the operator selection is received; and

receiving an on-line operator lock of the customized interest rate for the selected mortgage product.

28. An on-line mortgage qualification system, comprising:

means for receiving loan application data for a mortgage loan, the mortgage loan application data including financial information concerning a borrower and specifying a loan principal;

means for identifying a plurality of approved mortgage products based on the loan application data, the plurality of approved mortgage products being identified using an automated underwriting engine that generates underwriting recommendations based at least in part on preselected underwriting guidelines of a secondary mortgage market purchaser;

means for calculating a customized interest rate based on the financial information for each of the plurality of approved mortgage products; and

means for providing information regarding approval status and the customized interest rate for presentation to the borrower for each of the plurality of approved mortgage products for borrower comparison and selection of one of the plurality of approved mortgage products.

29. The system of claim 28, further comprising:

means for receiving a selection of one of the plurality of approved mortgage products;

means for receiving a lock of the customized interest rate for the selected mortgage product; and

means for aggregating closing costs into the loan principal of the selected mortgage loan product.

31. The system of claim 28, further comprising means for obtaining a credit report on the borrower.

32. The system of claim 28, further comprising means for determining an appropriate level of collateral appraisal field work to be performed.

33. The system of claim 32, wherein the appropriate level of collateral field work is one of waived, exterior-only collateral inspection and interior and exterior collateral inspection.

35. The system of claim 28, wherein the plurality of approved multiple mortgage products are mortgage refinance products.

36. An on-line mortgage qualification system, comprising:
means for obtaining loan application data for a mortgage loan, the loan application data including financial information concerning a borrower and specifying a loan principal;
means for identifying a plurality of approved mortgage products based on the loan application data, the plurality of approved mortgage products being identified using an automated underwriting engine that generates underwriting recommendations based at least in part on preselected underwriting guidelines of a secondary mortgage market purchaser;
means for calculating a customized interest rate based on the financial information for each of the plurality of approved mortgage products, including calculating adjustments to a required yield associated with the mortgage product based on (i) credit risk posed by the borrower, (ii) loan-to-value ratio, (iii) loan purpose, and (iv) product characteristics of the mortgage product;
means for providing information regarding approval status and the customized interest rate for presentation to the borrower for each of the plurality of approved mortgage products for borrower comparison and selection of one of the plurality of approved mortgage products;
means for receiving an on-line operator selection of one of the plurality of approved mortgage products;
means for receiving an on-line operator selection of a float option;
means for providing updated customized interest rate information for presentation to the borrower during a float period; and
means for receiving an on-line operator lock of the customized interest rate for the selected mortgage product.

37. The system of claim 36, wherein the means for obtaining loan application data includes a questionnaire provided over a global computer network.

38. The system of claim 37, wherein the global computer network is the Internet.

39. The system of claim 36, further comprising means for calculating a probability that the potential borrower will be approved for one or more mortgage loan products.

41. The system of claim 36, wherein the plurality of approved mortgage products are mortgage refinance products.

53. The method of claim 1, wherein the plurality of approved mortgage products include at least one mortgage product selected for submission to the underwriting engine by the borrower and at least one mortgage product selected for submission to the underwriting engine automatically and not by the borrower.

54. The method of claim 1, wherein the approval status and customized rate information are presented for side-by-side comparison.

55. The method of claim 11, wherein the plurality of approved mortgage products include at least one mortgage product selected for submission to the underwriting engine by the borrower and at least one mortgage product selected for submission to the underwriting engine automatically and not by the borrower.

56. The method of claim 11, wherein the approval status and customized rate information are presented for side-by-side comparison.

57. The method of claim 26, wherein the plurality of approved mortgage products include at least one mortgage product selected for submission to the underwriting engine by the borrower and at least one mortgage product selected for submission to the underwriting engine automatically and not by the borrower.

58. The method of claim 26, wherein the approval status and customized rate information are presented for side-by-side comparison.